

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**ANTHONY RIGGINS,**

**Case No. 1:01-CV-503**

**Plaintiff,**

**Vs.**

**JUDGE DLOTT**

**FORREST HUNT, et al.,**

**Defendants.**

**DEFENDANTS'  
MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR NEW TRIAL**

Now come defendants, by and through undersigned counsel, to respectfully submit their memorandum in opposition to plaintiff's motion for a new trial. According to Fed. R. Civ. Proc. 59 (b), "a]ny motion for a new trial shall be filed no later than 10 days after entry of the judgment." The judgment and jury verdict were both filed by the Court's clerk on 11/24/03. Plaintiff's motion for a new trial was filed on 12/5/2003, eleven (11) days after entry of judgment. Based on the filing dates, Plaintiff's motion was filed outside the ten (10) day period of the filing of the jury verdict and judgment entry. Therefore, Plaintiff's Motion should be dismissed as untimely.

In the event that this Court does not dismiss the plaintiff's motion for a new trial based on the untimeliness of said motion, defendants' seek at least ten (10) days in order to file a supplemental memorandum of law in response to plaintiff's motion for new trial. In addition, defendants will need to have the testimony of Jerry Wells, Anthony Gannon, and/or Carl Distel transcribed.

For the foregoing reasons, defendants respectfully move this Court to dismiss the plaintiff's motion for a new trial due to the untimeliness of said motion.

Respectfully submitted,

s/Marie Hoover

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Attorney for Defendants

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### **CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 2003, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing pleading and the Notice of Electronic Filing has been served by U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically.

s/ Marie Hoover

Marie Moraleja Hoover #0063254

Attorney for Defendants